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As of: May 1, 2006 (9:27am)

LC7777

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act generally revising the laws governing the administration of state trust land; providing a new funding formula for administration of state lands; providing a funding formula to determine a maximum for appropriations from the trust land administration account; making it clear that the board of regents shall determine how timber proceeds from montana university system lands are distributed; providing for the deposit of an amount of not more than 15% of gross revenue generated annually across all state land trusts, except Morrill Act lands, into the trust land administration account; eliminating the resource development account and associated requirements; eliminating the recreational use account and the requirement to withhold two dollars from each license fee for administration; eliminating the timber sale account; requiring the compensation for damages resulting from recreational use be paid out of the trust land administration account; requiring that weed management necessary due to recreational use on state lands be paid out of the trust land administration account; removing the requirement to retain ten percent of gross receipts from any agreement with the department of fish, wildlife, and parks regarding recreational use of state lands; removing the department's ability to retain ten percent of annual rent received from commercial leasing for administration; allowing for

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commercial lease administration expense to be paid from the trust land administration account; eliminating the ability of the department to retain up to ten percent of proceeds in the state land bank fund for administration; allowing for the use of funds appropriated from the trust land administration account to be used for administration of the land banking program; amending sections 17-3-1003, 18-2-107, 20-9-620, 77-1-108, 77-1-109, 77-1-802, 77-1-809, 77-1-810, 77-1-815, 77-1-905, 77-2-328, and 77-2-362, MCA; repealing sections 77-1-602, 77-1-604, 77-1-606, 77-1-607, 77-1-608, 77-1-609, 77-1-613, and 77-1-808, MCA and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-3-1003, MCA, is amended to read:

"17-3-1003. Support of state institutions. (1) For the support and endowment of each state institution, there is annually and perpetually appropriated, after any deductions made under 77-1-109, ~~Title 77, chapter 1, part 6, and 77-2-362,~~ the income from all permanent endowments for the institution and from all land grants as provided by law. All money received or collected in connection with permanent endowments by all higher educational institutions, reformatory, custodial and penal institutions, state hospitals, and sanitariums, for any purpose, except revenue pledged to secure the payment of principal and interest of obligations incurred for the purchase, construction, equipment, or improvement of facilities at units of the Montana

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university system and for the refunding of obligations or money that constitutes temporary deposits, all or part of which may be subject to withdrawal or repayment, must be paid to the state treasurer who shall deposit the money to the credit of the proper fund.

(2) Except as provided in subsections (1) and (3), all money received from the investment of grants of a state institution and all money received from the leasing of lands granted to a state institution must be deposited with the state treasurer of Montana for each institution, to the credit of the state special revenue fund.

(3) Except as provided in 77-1-109 and subsection (4) of this section, all money received from the sale of timber from lands granted to a state institution must be deposited to the credit of the permanent trust fund for the support of the institution.

(4) The board of regents shall designate, at least once per biennium, whether the timber sale proceeds from Montana university system lands must be distributable to the beneficiaries or placed in the permanent fund."

{ Internal References to 17-3-1003:
17-3-1004x 77-1-109x }

Section 2. Section 18-2-107, MCA, is amended to read:

"18-2-107. Deposit of capitol building grant revenue. (1)
The state treasurer shall deposit in a capital projects fund all revenue from the capitol building land grant after any deductions

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made under 77-1-109, ~~Title 77, chapter 1, part 6, and 77-2-362.~~

(2) The funds must be held and dedicated for the purpose of constructing capitol buildings or additions to buildings in accordance with the provisions of section 12 of The Enabling Act."

{Internal References to 18-2-107:
18-2-101 x}

Section 3. Section 20-9-620, MCA, is amended to read:

"20-9-620. Definition. (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue" means, except for that portion of revenue described in 20-9-343(4)(a)(ii) and ~~available on or after July 1, 2003, 77-1-607, and 77-1-613~~ 77-1-109, 95% of all revenue from the management of school trust lands and the permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

(2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the permanent fund or net unrealized capital gains that remain in the permanent fund until realized."

{Internal References to 20-9-620: None.}

Section 4. Section 77-1-108, MCA, is amended to read:

"77-1-108. Trust land administration account. (1) As used in this section, for all land trusts managed by the state board of land commissioners, except property held pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill

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Act of 1890, 7 U.S.C. 321 through 328, "revenue" includes:

(a) the interest and income received from the investment of the permanent funds, less any unrealized gains or losses;

(b) the income received from the leasing, licensing, or other use of state trust lands; and

(c) the proceeds from the sale or other disposition of interests in state trust land property.

(2) There is a trust land administration account in the state special revenue fund. Money in the account is available to the department by appropriation and must be used to pay the costs of administering state trust lands.

~~(2)(3)~~ Appropriations from the account for each fiscal year may not exceed ~~the sum of 1 1/8% of the book value balance in the nine permanent funds administered by the department on the first day of January preceding the new biennium and 10%~~ an amount equal to 15% of the revenue deposited gross revenue generated annually from the sum of all land trusts for the last completed fiscal year except revenue received from:

(a) property held pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 328; and

(b) the forest improvement fee provided for in 77-5-204 in the capitol building land grant trust fund in the last completed fiscal year prior to the new biennium.

~~(3)(4)~~ Unreserved Except as provided in 17-7-304, unreserved funds remaining in the account at the end of a fiscal year must be transferred to each of the permanent funds or

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distributable accounts in proportionate shares to each fund's contribution to the account ~~as calculated in 77-1-109(3).~~

(5) The department's costs of administering state trust lands must be equitably apportioned to the various land trusts based on the department's activities and revenues generated from each land trust."

{ Internal References to 77-1-108:

77-1-109 x 77-1-109x 77-2-328 x
}

Section 5. Section 77-1-109, MCA, is amended to read:

"77-1-109. Deposits of proceeds in trust land administration account. (1) Gross revenue received by the department must be deposited in funds established for each trust beneficiary. Fund deposits must be identified by revenue source.
(2) The department shall, until the deposit equals the amount appropriated for the fiscal year pursuant to 77-1-108, deposit into the trust land administration account created by 77-1-108 one or more of the following:

- (a) distributable revenue;
- (b) mineral royalties;
- ~~(b)~~ (c) the proceeds or income from the sale of easements and timber, except timber from public school and Montana university system lands;
- ~~(c)~~ (d) 5% of the interest and income annually credited to the public school fund in accordance with 20-9-341; and
- ~~(d)~~ (e) fees collected pursuant to 77-2-328.
- ~~(2)~~ (3) After the deposits in subsection ~~(1)~~ (2) have been

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made, the remainder of the proceeds, other than proceeds from public school lands, timber from Montana university system lands, and ~~other than~~ those proceeds purchased pursuant to 17-6-340, must be deposited in the appropriate permanent fund and the capitol building land grant trust fund. Timber proceeds from university system lands must be paid over to the state treasurer, who shall deposit the money to the credit of the proper fund for use as provided in 17-3-1003(1). Royalty payments purchased pursuant to 17-6-340 must be used as provided in that section and 20-9-622.

~~(3) The amount of money that is deposited into the trust land administration account may not exceed 1 1/8% of the book value balance in each of the nine permanent funds administered by the department on the first day of January preceding the new biennium and 10% of the previous fiscal year revenue deposited into the capitol building land grant trust fund."~~

{ Internal References to 77-1-109:

17-3-1003?	17-3-1003?	18-2-107x	20-9-341x
20-9-601x	20-9-601x	20-25-422x	77-1-108x }

Section 6. Section 77-1-802, MCA, is amended to read:

"77-1-802. (Temporary) Recreational use -- fee. (1) The fee for recreational use on state trust land must attain full market value whether the license is sold on an individual basis or on a group basis through an agreement with the department of fish, wildlife, and parks as provided in 77-1-815.

(2) Money received by the department from the sale of recreational use licenses must be credited as follows:

(a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage of acreage in the total acreage of all state land trusts.

(b) ~~Two dollars from the fee for each license, less 50~~
Fifty cents from the fee for each license to must be returned to the license dealer as a commission, ~~must be deposited in the state lands recreational use account established by 77-1-808.~~

(3) The department may contract with the department of fish, wildlife, and parks for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

77-1-802. (Effective on occurrence of contingency)

Recreational use license -- fee. (1) The fee for a recreational use license must attain full market value.

(2) Money received by the department from the sale of recreational use licenses must be credited as follows:

(a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state land trusts.

(b) ~~Two dollars from the fee for each license, less 50~~
Fifty cents from the fee for each license to must be returned to the license dealer as a commission, ~~must be deposited in the~~

~~state lands recreational use account established by 77-1-808.~~

(3) The department may contract with the department of fish, wildlife, and parks for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9."

{Internal References to 77-1-802:

70-16-302x	70-16-302x	77-1-106x	77-1-106x
77-1-106x	77-1-106x	77-1-801x	77-1-801x
77-1-808x	77-1-808x	77-1-815x }	

Section 7. Section 77-1-809, MCA, is amended to read:

"77-1-809. Compensation for damage to improvements, growing crops, or livestock. A lessee may apply to the department for reimbursement of documented costs of repair to or replacement of improvements, growing crops, or livestock damaged by recreational users of state lands. The application must include an affidavit by the applicant setting forth the nature of the loss, allegations and reasonable proof supporting the involvement of recreational users, and documentation of repair or replacement costs. Upon review of the application and supporting proof and upon additional investigation as required, the department shall grant, modify, or deny the claim. The department, by reason of payment to the lessee for damage to improvements, is entitled to be subrogated to the rights of the lessee to recover the amount paid from the party causing the damage. Payments under this section must be made from appropriations from the ~~state lands~~

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~~recreational use~~ trust land administration account established by ~~77-1-808~~ 77-1-108, and the liability of the department for damage payments is limited to the available appropriation. Claim applications are to be considered in the order they are received."

{Internal References to 77-1-809:
77-1-808 x 77-1-808 x}

Section 8. Section 77-1-810, MCA, is amended to read:

"77-1-810. Weed control management. (1) The department shall establish a weed control management program for the control of noxious weeds reasonably proved to be caused by the recreational use of state lands. The department may by rule establish a noxious weed management program that may include direct compensation for noxious weed control activities or participation in district and county weed control projects or department-initiated weed control activities.

(2) Funding for this program must come from appropriations from the ~~state lands recreational use~~ trust land administration account ~~pursuant to 77-1-808~~ as provided in 77-1-108."

{Internal References to 77-1-810: None.}

Section 9. Section 77-1-815, MCA, is amended to read:

"77-1-815. (Temporary) Recreational use agreement for hunting, fishing, and trapping on legally accessible state trust land. (1) The board is authorized to enter into an agreement with the department of fish, wildlife, and parks to compensate state

trust land beneficiaries for the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land as defined in department rule. The department may impose restrictions it considers necessary to coordinate the uses of state trust land or to preserve the purposes of the various trust lands. Hunting, fishing, and trapping on state trust land must be conducted in accordance with rules and provisions provided in this part.

(2) An agreement may be issued to the department of fish, wildlife, and parks for a term of up to 10 years. Through this agreement, the board shall recover for the beneficiaries of the trust the full market value for the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land. ~~Ten percent of the gross receipts from the agreement must be deposited in the state lands recreational use account established in 77-1-808. The remaining 90%~~ The department may use funds appropriated from the trust land administration account provided for in 77-1-108 to implement and manage the agreement. Except as provided in 17-7-304, any unexpended amount in the account established by 77-1-108 that resulted from recreational use must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage of acreage in the total acreage of all state land trusts.

(3) Any agreement entered into is subject to the following conditions:

(a) The department maintains sole discretion, throughout the term of the agreement, with regard to identifying legally

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accessible parcels, coordinating uses on state trust land, and any other necessary state trust land management decisions.

(b) An agreement between the department and the department of fish, wildlife, and parks may not convey any additional authority to the department of fish, wildlife, and parks.

(4) During any period that the department of fish, wildlife, and parks and the department have reached an agreement as provided in subsection (1), an individual recreational use license under 77-1-801 or 77-1-802 may not be required for a member of the public to hunt, fish, or trap upon legally accessible state trust land. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"

{Internal References to 77-1-815:

70-16-302 x	77-1-106x	77-1-106x	77-1-801x
77-1-802x	77-1-808x	}	

Section 10. Section 77-1-905, MCA, is amended to read:

"77-1-905. Rental provisions for commercial leasing -- payments and credits -- administration -- lease options. (1) The first year's annual rental payment for state trust land leased for commercial purposes must be paid by cashier's check, and payment is due upon execution of the lease. The department may require the lessee of state trust land for commercial purposes to pay the department's cost of the request for proposals process, including publication and other reasonable expenses. Failure to pay the first year's rental at the time of lease execution must result in the cancellation of the lease and forfeiture of all money paid. In the event of cancellation or in the event that the

successful proposer is offered and does not accept the lease, the board may enter into negotiations with other persons who submitted a proposal for commercial purposes in response to the department request for proposals on that tract.

(2) The board shall specify in any commercial lease an annual rental equal to the full market rental value of the land. The annual rent may not be less than the product of the appraised value of the land multiplied by a rate that is 2 percentage points a year less than the rate of return of the unified investment program administered by the board of investments pursuant to 17-6-201. The rate of return from the unified investment program used in this subsection must be determined no less than 30 days prior to the execution of the competitive bid. A commercial lease may include a rental adjustment formula established by the board that periodically adjusts the annual rent provided for in the lease at frequencies specified in the lease. The board may allow a credit against the annual rent due for payments made by the lessee on behalf of the state of Montana for construction of structures and improvements, special improvement district assessments, annexation fees, or other city or county fees attributable to the state's property interest in land leased for commercial purposes. The board may accept as lawful consideration in-kind payments of services or materials equal to the full market value of the rent calculated to be owed on any commercial lease. A lease issued under this part may include an amortization schedule to be used to determine the value to the lessee of improvements when the lease is terminated.

(3) The department may use ~~up to 10% of the annual rent received from a commercial lease~~ funds appropriated from the trust land administration account as provided in 77-1-108 to contract with realtors, property managers, surveyors, legal counsel, or lease administrators to administer the commercial lease, either singly or in common with other leases, or to provide assistance to the department in the administration of commercial leases.

(4) In anticipation of entering into a commercial lease, the board may issue an option to lease at a rental rate that the board determines to be appropriate. An option to lease may not exceed a term of 2 years. An option to lease may not be construed to grant a right of immediate possession or control over the land but may only preserve the optionholder's exclusive right to obtain a commercial lease on the land in the future."

{Internal References to 77-1-905: None.}

Section 11. Section 77-2-328, MCA, is amended to read:

"77-2-328. Additional rules -- deposit of fees. The board may prescribe any additional rules for the conduct of sales of state land as in its judgment the interests of the state may demand. Any fees collected by a rule adopted pursuant to this section must be deposited in the trust land administration account as provided in ~~77-1-108~~ 77-1-109."

{Internal References to 77-2-328:
77-1-109 x}

Section 12. Section 77-2-362, MCA, is amended to read:

"77-2-362. State land bank fund -- statutory appropriation -- rules. (1) There is a state land bank fund. The proceeds from the sale of state trust land authorized by 77-2-361 through 77-2-367 must be deposited into the state land bank fund. The purpose of the state land bank fund is to temporarily hold proceeds from the sale of trust land pending the purchase of other land, easements, or improvements for the benefit of the beneficiaries of the respective trusts. A separate record of the proceeds received from the sale of trust land for each of the respective trusts must be maintained. Proceeds from the sale of lands that are part of a trust land grant may be used only to purchase land for the same trust.

(2) (a) Proceeds deposited in the state land bank fund, except earnings on those proceeds, are statutorily appropriated, as provided in 17-7-502, to the department for the purposes described in 77-2-361 through 77-2-367. All earnings on the proceeds deposited in the state land bank fund are subject to the provisions of Article X, sections 5 and 10, of the Montana constitution.

(b) Except as provided in subsection (2)(c), ~~up to 10% of the proceeds in the state land bank fund~~ funds appropriated from the trust land administration account provided for in 77-1-108 may be used by the department to fund the transactional costs of buying, selling, appraising, or marketing real property. Transactional costs may include realtor's fees, title reports, title insurance, legal fees, and other costs that may be

necessary to complete a conveyance of real property.

(c) Proceeds from the sale of lands held pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 328, may not be used for any transactional costs or trust administration purposes for those lands.

(d) The department may hold proceeds from the sale of state land in the state land bank fund for a period not to exceed 10 years after the effective date of each sale. If, by the end of the 10th year, the proceeds from the subject land sale have not been encumbered to purchase other lands, easements, or improvements within the state, the proceeds from that sale must be deposited in the public school fund or in the permanent fund of the respective trust as required by law, along with any earnings on the proceeds from the land sale, unless the time period is extended by the legislature.

(3) The board shall adopt rules providing for the implementation and administration of the state land bank fund, purchases, and sales."

{Internal References to 77-2-362:

7-22-2154* x	17-3-1003 x	17-7-502x	18-2-107x
77-2-337 x	77-2-337x	77-2-337x	77-2-337*x
77-2-337x	77-2-337*x	77-2-361*x	77-2-362*x
77-2-362*x	77-2-364*x	77-2-364*x	77-2-365*x
77-2-366 x	77-2-366* x}		

NEW SECTION. **Section 13. {standard} Repealer.** Sections 77-1-602, 77-1-604, 77-1-606, 77-1-607, 77-1-608, 77-1-609, 77-1-613, and 77-1-808, MCA, are repealed.

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{ Internal References to 77-1-602: None.
Internal References to 77-1-604: 77-1-606 r
Internal References to 77-1-606: None.
Internal References to 77-1-607: 20-9-620 x 77-1-608r
Internal References to 77-1-608: None.
Internal References to 77-1-609: None.
Internal References to 77-1-613: 20-9-620 x 77-1-607r
Internal References to 77-1-808: 77-1-802x 77-1-802x 77-1-809 x
77-1-810 x
77-1-815 x }

NEW SECTION. **Section 14. {standard} Effective date.** [This
act] is effective on July 1, 2007.

- END -

{Name : Krista Lee Evans
Title : Resource Policy Analyst
Agency: Legislative Environmental Policy Office
Phone : 444-1640
E-Mail: kevens@mt.gov}